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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659.056	09/09/2003	Andreas Blumenthal	13913-083001 / 2002P10217	3806
32864	7590	03/26/2007	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			CHOU, ANDREW Y	
			ART UNIT	PAPER NUMBER
			2192	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/659,056	Applicant(s) BLUMENTHAL ET AL.	
	Examiner Andrew Y. Chou	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/05/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications filed on 01/05/2007.
2. Claims 1, 3, 5-7, and 13-19 have been amended.
3. Claims 20-27 are new.
4. Claims 1-27 are pending.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In lines 9-11, claim 1 recites the limitation "...a respective checkpoint group can be made independently of the location of the checkpoint, so that the structure of checkpoint groups is independent of the program structure of the first computer program". The use of the word "can" is indefinite since it is unclear as to whether or not the checkpoint group has to be made independently of the location of the checkpoint. The examiner assumes that although the checkpoint group can be made independently of the location of the checkpoint, it is not required to be made independently of the location of the checkpoint.

In lines 7-9, claim 13, recites the limitation "checkpoint group can be made...". The use of the word "can" is indefinite since it is unclear as to whether or not the

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checkpoint group has to be made independently of the location of the checkpoint. As applied to claim 1 above, the examiner assumes that although the checkpoint group can be made independently of the location of the checkpoint, it is not required to be made independently of the location of the checkpoint.

Claims 2-12, 14-16, 21, and 22 are also rejected under 35 U.S.C. 112 second paragraph because they are dependent on the independent claims 1 and 13.

Response to Arguments

7. Applicant's arguments with respect to claims rejection have been considered but are moot in view of the new grounds of rejection to now amended claims. See Bates et al US 2004/0226003 A1 (hereinafter Bates) made of record below.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by See Bates et al US 2004/0226003 A1 (hereinafter Bates).

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Claim 1:

Bates discloses a computer program product, tangibly embodied on a machine-readable storage device, comprising instructions operable to cause data processing apparatus to:

establish any number of checkpoints in a first computer program, the first computer program having a program structure (see for example page 4, [0044]); and

assign each checkpoint in the plurality of checkpoints to a checkpoint group without regard to the program structure of the first computer program, wherein the assignment of a given checkpoint to a respective checkpoint group can be made independently of the location of the checkpoint, so that the structure of checkpoint groups is independent of the program structure of the first computer program (see for example page 4, [0044]).

Claim 2:

Bates further discloses the product of claim 1, wherein the checkpoints comprise assertion statements and breakpoint statements (see for example page 4, [0048]).

Claim 3:

Bates further discloses the product of claim 1, further comprising instructions to: establish activation variants to enable multiple checkpoint groups to be managed jointly (see for example 4, [0044], "The breakpoint group panel includes a list of groups of breakpoints that the user may request the debug controller to enable, disable, and removes as a group.").

Claim 4:

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Bates further discloses the product of claim 1, further comprising instructions to: receive a control input activating a first checkpoint group; and activate the checkpoints in the first checkpoint group (see for example 4, [0044], "The breakpoint group panel includes a list of groups of breakpoints that the user may request the debug controller to enable, disable, and removes as a group.").

Claim 5:

Bates further discloses the product of claim 4, wherein the instructions to receive a control input further specifies a mode and the mode comprises instructions to:

receive a control input that specifies a mode in which checkpoints that are assertions terminate on assertion failure (see for example page 4, [0046]);

receive a control input that specifies a mode in which checkpoints that are assertions log status on assertion failure see for example page 4, [0046]); and

receive a control input that specifies a mode in which checkpoints that are assertions break in a debugger on assertion failure (see for example page 4, [0046]).

Claim 6:

Bates further discloses the product of claim 4, further comprise instructions to: receive a control input specifying that activating is to performed only for a particular user of the first computer program (see for example page 4, [0046], "user").

Claim 7:

Bates further discloses the product of claim 4, further comprise instructions to:

receive a control input specifying that activating is to be performed only for a particular server on which the first computer program is running (see for example FIG.

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1, item 105, and related text).

Claim 8:

Bates further discloses the product of claim 1, wherein the checkpoints and the first computer program are in a source code form (see for example FIG. 2, and related text)).

Claim 9:

Bates further discloses the product of claim 8, wherein:

the checkpoints comprise assertion statements, each assertion statement when activated testing whether a specified assertion condition is true or false (see for example FIG. 2, item 256, and related text); and

the checkpoints comprise breakpoint statements, each breakpoint statement when activated halting program execution when it is encountered during program execution (see for example FIG. 2, item 256, and related text).

Claim 10:

Bates further discloses the product of claim 8, wherein:

the assertion statements comprise an assertion statement having an argument to activate logging with programmer-controlled granularity (see for example page 4, [0046]).

Claim 11:

Bates further discloses the product of claim 8, further comprising instructions to establish a development environment for developing the first computer program in which the checkpoint groups are development objects (see for example FIG. 5, item

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500, "user interface", and related text).

Claim 12:

Bates further discloses the product of claim 1, wherein the checkpoints and the first computer program are in a compiled form (see for example FIG. 2, and related text).

Claim 13:

Bates discloses an apparatus (see for example FIG. 1, and related text), comprising: means for establishing a plurality of checkpoints in a computer program, the computer program having a program structure (see for example page 4, [0044]); and means for assigning each checkpoint in the plurality of checkpoints to a checkpoint group without regard to the program structure of the computer program, wherein the assignment of a given checkpoint to a respective checkpoint group can be made independently of the location of the checkpoint, so that the structure of checkpoint groups can be independent of the program structure of the first computer program (see for example page 4, [0044]);

Claim 14:

Bates further discloses the apparatus of claim 13, wherein: the checkpoints comprise assertions and breakpoints (see for example page 4, [0048]).

Claim 15:

Bates further discloses the apparatus of claim 13, further comprising: means for associating an activation variant with a checkpoint group (see for example 4, [0044], "The breakpoint group panel includes a list of groups of breakpoints that the user may

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request the debug controller to enable, disable, and removes as a group.”).

Claim 16:

Bates further discloses the apparatus of claim 13, further comprising: means for associating an activation variant with a compilation unit (see for example FIG. 5; and related text).

Claim 17:

Bates discloses a method, comprising:

receiving a computer program having a plurality of checkpoints assigned to a plurality of checkpoint groups (see for example page 4, [0044]), each checkpoint and checkpoint group being identified by a group identifier (see for example FIG. 2, item 258, and related text), the computer program having a program structure, each group identifier identifying checkpoints without limitation as to the location of the checkpoints in the computer program, so that the structure of checkpoint groups is independent of the program structure of the computer program, each checkpoint being an assertion or a breakpoint (see for example FIG. 2, and related text) and

receiving user input to invoke checkpoints as a group according to their group identifiers (see for example FIG. 2, items 258, 260, and related text).

Claim 18:

Bates further discloses the method of claim 17, further comprising:

receiving a user input specifying a mode of invocation of checkpoints; and invoking checkpoints according to the specified mode (see for example page 4, [0046]).

Claim 19:

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Bates further discloses the method of claim 17, further comprising:

receiving a further user input specifying a scope of invocation of checkpoints (see for example Fig. 12A, step 1206, and related text), the scope specifying that checkpoints are to be invoked only for a particular user of the first computer program (see for example FIG. 12A, step 1208, and related text), that checkpoints are to be invoked only for a particular server on which the first computer program is running, or that checkpoints are to be invoked globally; and

invoking checkpoints according to the specified scope (see for example FIG. 12A, step 1208, and related text).

Claim 21:

Bates further discloses the product of claim 1, wherein

the instructions to include each checkpoint in a checkpoint group comprise instructions to associate a respective checkpoint group name with each checkpoint in the source code for the first computer program (see for example FIG. 5, item 506, and related text).

Claim 22:

Bates further discloses the apparatus of claim 13, wherein:

the means for including each checkpoint in a checkpoint group comprises means for associating a respective checkpoint group name with each checkpoint in the source code for the computer program (see for example FIG. 5, item 506, and related text).

Claim 23:

Bates further discloses the method of claim 17, wherein:

the checkpoints identified by a group identifier are each identified by the respective group identifier in the source code for the computer program (see for example FIG. 2, item 258, and related text).

Claim 24:

Bates further discloses the method of claim 17, wherein the computer program has checkpoints including both assertions and breakpoints (see for example page 4, [0048]).

Claim 25:

Bates discloses a method for adding checkpoints to a computer program having source code, the method comprising:

adding to the computer program a plurality of checkpoints each assigned to a checkpoint group by a respective group name for the checkpoint, the assignment of checkpoints to checkpoint groups being made without regard to the program structure of the computer program (see for example page 4, [0044], [0048]).

Claim 26:

Bates further discloses the method of claim 25, further comprising:

adding the plurality of checkpoints to the source code of the computer program, the respective group name for each checkpoint being included in the source code for the checkpoint (see for example Fig. 2, item 258, and related text); and
transporting the checkpoint groups as development objects with the computer program from a development environment to a production environment, the development objects being objects created and managed by the development environment (see for example FIG. 5, item 500, "user interface", and related text).

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Claim 27:

Bates further discloses the product of claim 10, wherein:

the argument to activate logging indicates that a log entry is made for each distinct value of a named field (see for example FIG. 5, item 506, "GROUP CREATION MENU", and related text).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

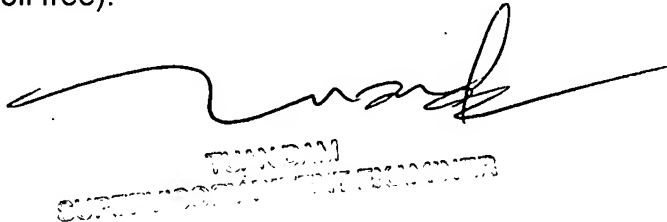
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

AYC

A handwritten signature in black ink, appearing to be "Mark", is written over a faint, illegible stamp. The stamp contains some text that is difficult to decipher but appears to include "TAX 2011" and "EBC".